

EXHIBIT J

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

HITUL GANDHI, Individually,)	
and on behalf of a class)	
of others similarly situated,)	
)	
Plaintiff,)	
v.)	Case No.
)	1:08cv-00248-SS
DELL INC.,)	
and)	
DELL MARKETING USA L.P.,)	
)	
Defendants.)	
)	

DEPOSITION OF:

DAVID HALEY

Taken on Behalf of the Defendants

November 3, 2008

VOWELL & JENNINGS, INC.
Court Reporting Services
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1 Q. And when was the last time you took
2 that?

3 A. Last night.

4 Q. When did you work at Dell?

5 A. I worked at Dell -- I was employed by
6 Dell from January 2004 to February 2007.

7 Q. And you started work initially with
8 Spherion?

9 A. That's correct.

10 Q. And when did you start with Spherion?

11 A. I believe it was October 2003.

12 Q. And how did you happen to go to work
13 for Spherion?

14 A. I applied for the job and was accepted.

15 Q. Was there like a newspaper ad or --

16 A. No.

17 Q. -- just walk in, or how did you know
18 there were openings?

19 A. I don't remember.

20 Q. What were you doing at the time?

21 A. I was selling commercial real estate --
22 or actually I was trying to sell commercial real
23 estate.

24 Q. Here in Nashville?

25 A. That's correct.

1 A. James Eddings. And that's all I can
2 think of right now.

3 Q. Did you have any training when you were
4 at Dell?

5 A. I did.

6 Q. What kinds?

7 A. Both -- we had seminar-based training
8 where groups of people listened to an individual
9 and discussed issues. We had electronic training
10 which were done on our own via the Web, meaning no
11 other human contact was involved, was simply done
12 on the Web. We had one-on-one coaching with
13 managers. And we had mentoring with, you know,
14 accomplished and favored peers.

15 Q. And did you ever serve as a mentor?

16 A. I did.

17 Q. What position did you hold when you
18 were first hired at Spherion?

19 A. A position that was called new queue
20 rep.

21 Q. And how long did you stay a new queue
22 rep?

23 A. I don't remember.

24 Q. Was it like two or three months or like
25 two or three years?

1 A. It was possibly more than one month and
2 definitely less than three months.

3 Q. And then what was your next job?

4 A. The next job title was as what's called
5 super queue rep.

6 Q. And how long were you in the super
7 queue?

8 A. I believe I was in super queue 'til
9 fall 2005.

10 Q. And what was your position after fall
11 2005?

12 A. It was what they termed the jaguar rep.

13 Q. And what was jaguar?

14 A. Jaguar was a bit different, and -- and
15 it's important in terms of this case too, because
16 the queue rep answered incoming random calls and
17 was told to, you know, position the correct
18 product or sell the correct product to the
19 customers.

20 Jaguar was different in that it worked
21 off of a predictive dialer that called out to
22 random customers. And my job was to sell them
23 incrementally more as well as take incoming calls
24 from former customers gathered during super queue.
25 So the incoming calls were directed to my phone

1 it started dialing the East Coast numbers, and it
2 was turned off, I believe, at 8:00 p.m., to the
3 best of my recollection, as it was dialing West
4 Coast numbers.

5 Q. And how long did you work as a jaguar
6 rep?

7 A. You know, I am so terrible with math.

8 Q. Uh-huh.

9 A. But I can tell you that I started as a
10 jaguar, best of my recollection, 2005, fall, and I
11 ended my jaguar career August of 2006.

12 Q. And then where -- what was your next
13 job?

14 A. It was about a year.

15 Q. Yeah.

16 A. My next job was in a department that we
17 call Mid Market, relationship sales rep.

18 Q. And how long did you work there?

19 A. 'Til I was terminated in February.

20 Q. Of 2007?

21 A. Yes, sir.

22 Q. And why were you terminated?

23 A. The reason -- the reason why I was
24 terminated was -- I believe the reason why I was
25 terminated was because I made a complaint about a

1 against my fellow employees, both Dell badged and
2 Spherion. When I was at Spherion, I was rated
3 against them, but I wasn't paid that stack's bonus
4 until I became a Dell employee.

5 And as a matter of fact -- I'm
6 recalling this even as we speak -- I don't think I
7 received compensation -- I don't think I received
8 commissions compensation as a Spherion employee.
9 I began to receive it as a Dell employee.

10 Q. Now, you indicated that as a Spherion
11 employee, it was -- you were an hourly employee,
12 paid on an hourly basis?

13 A. Yes.

14 Q. And that changed when you became a Dell
15 employee?

16 A. It's my understanding that that
17 changed.

18 Q. You still received overtime, but it was
19 at a different rate than when you had been a
20 Spherion employee?

21 A. That's what I was told.

22 Q. Who told you that?

23 A. My managers.

24 Q. And who was that?

25 A. That was Dimitri Koutsos, Sean Shockey,

1 S-E-A-N --

2 Q. That's a man?

3 A. Yes, it is.

4 Brandy Key and Dan Williamson.

5 Q. And what did they tell you, that you
6 recall, about how you were going to be compensated
7 for overtime as a Dell employee?

8 A. They said that we're compensated at a
9 lesser rate, that the amount is minimal, that the
10 pay is quarterly. That's my recollection of what
11 I was told by all of those people at different
12 times.

13 Q. When you worked -- first started
14 working, how did you keep records of your time?

15 A. Through Kronos.

16 Q. And would you go in and enter it into
17 Kronos?

18 A. I would.

19 Q. So -- just so the record is clear,
20 Kronos is a -- is a computer program?

21 A. Yes, it is.

22 Q. Or application, I guess is more
23 technical.

24 A. It's a time clock, computer time clock.

25 Q. And did it work as a time clock or did

1 it work more as just a blank spreadsheet that you
2 could put in -- let's say you got there at 8:30,
3 could you enter 7:30 on your Kronos time sheet?

4 A. I could, yes.

5 Q. So you had control over what time you
6 entered into Kronos?

7 A. Yes.

8 Q. And I guess one of the points I'm
9 trying to make is it wasn't automated in any way?

10 A. Although Kronos wasn't automated in any
11 way, it was my understanding that Kronos was
12 compared to other methods of verifying your time.
13 So it's true that Kronos was not automated, but
14 there were other automated systems --

15 Q. That were around?

16 A. -- which was used to basically tell if
17 I'm lying about my time or not.

18 Q. So if you had -- in the example I gave,
19 if you had come in at 8:30 and put in 7:30, your
20 understanding was there were methods that someone
21 could check and call you out on that?

22 A. It was my understanding that if I lied
23 on -- if I claimed that I was there when I wasn't,
24 I would be fired, whether or not -- yes, I assumed
25 and I was told that there were ways of checking it

1 Q. Sure. My understanding is that under
2 certain conditions, an hour would be deducted for
3 lunch from Kronos; is that accurate?

4 A. I think that's accurate.

5 Q. And if you worked 15 minutes of your
6 lunch, did you have the ability to go in and
7 change that if you wanted?

8 A. I think so, yes.

9 Q. And did you ever do that?

10 A. Not over 15 minutes. I'm sure of that.
11 But I think I did.

12 You mean counteract the automatic
13 deduction?

14 Q. Yes, sir.

15 A. Yes.

16 Q. You had the ability to do that?

17 A. I did.

18 Q. And did so on some occasions?

19 A. I did, I think.

20 Q. You indicated there was a weekend -- or
21 three weekends, I think you said, where you worked
22 on scrubbing data when you became a Mid Market.

23 A. Uh-huh.

24 Q. Is that a yes?

25 A. I did indicate that.